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7 Attorneys for Defendant State of
8 Arizona, Department of Education

9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE DISTRICT OF ARIZONA**

11 Tracy Rexroat, an Arizona Resident,

12 Plaintiff,

13 vs.

14 Arizona Department of Education; and,
15 State of Arizona, State Board of Education,

16 Defendants.

Case No: CV11-01028-PGR

**DEFENDANT'S OPPOSITION TO
EX PARTE MOTION TO
WITHDRAW AS COUNSEL FOR
THE PLAINTIFF**

17 Defendant State of Arizona, Department of Education ("ADE"), through
18 undersigned counsel, opposes the *Ex Parte Motion to Withdraw as Counsel* ("Motion")
19 filed by Plaintiff's counsel, Michael Zoldan, on May 4, 2012. Doc. 68. The Motion
20 requests a Court Order permitting Mr. Zoldan and Hall & Chelle, L.L.C. to withdraw as
21 counsel for Plaintiff, Tracy Rexroat. Three attorneys have entered an appearance for the
22 Plaintiff: Cameron Hall (Doc. 1), Michael Zoldan (Doc. 30), and Zachary Price (Doc.
23 57). Cameron Hall and Zachary Price have not requested the Court's permission to
24 withdraw as counsel of record from this action.

25 This Court has broad discretion when considering a Motion to Withdraw. *See Le*
26 *Grand v. Stewart*, 133 F.3d 1253, 1269 (9th Cir. 1998); *United States v. Meeks*, 987 F.2d
27 575 (9th Cir. 1993). Four factors guide the Court's analysis: (1) the reason(s)
28 permission to withdraw is being sought; (2) the prejudice to other litigants; (3) the harm
withdrawal will cause to the administration of justice; and (4) the degree of delay

1 withdrawal may cause. *Huntington Learning Centers Inc. v. The Education Gateway,*
2 *Inc.*, No. CV09-3200 PSG (VBK), 2009 WL2337863, at *1, (C.D. Cal. July 29, 2009)
3 (citations omitted). The Court should deny the Motion for several reasons.

4 First, Mr. Zoldan failed to provide a reason for his request to withdraw, and he
5 failed to provide Plaintiff's written consent, both of which are required under LRCiv.
6 83.3(b). The Motion should be denied for that reason, alone, but additional grounds
7 exist.

8 Second, Mr. Zoldan filed a Motion to Withdraw on the heels of filing Plaintiff's
9 Motion to Compel Discovery and Motion for Sanctions against ADE and its counsel.
10 (Doc. 60). Those motions and ADE's response rest in large part on direct
11 communications between the parties' counsel over the span of several months.
12 Throughout the litigation, ADE has expended considerable resources responding to
13 various demands made by Rexroat's attorneys for electronically-stored information.
14 Justice requires that Rexroat's counsel be required to stand and answer for their
15 statements and conduct.

16 Third, the deadline to submit dispositive motions is two weeks away, on May 21,
17 2012. The Motion gives no indication of whether Plaintiff will continue to be
18 represented by Cameron Hall and Zachary Price, or whether she will be unrepresented,
19 or whether she will be retaining other counsel and seeking a continuance. The Court
20 should deny the Motion because it is likely to unnecessarily delay resolution of this
21 action, as the case moves into its final stages of summary judgment or trial.

22 RESPECTFULLY SUBMITTED this 7th day of May, 2012.

23 Thomas C. Horne
24 Attorney General

25 s/Rachel M. Bacalzo
26 Rachel M. Bacalzo
27 Assistant Attorney General
28 Attorneys for Defendant State of
Arizona, Department of Education

1 I certify that I electronically
2 transmitted the attached document
3 to the Clerk's Office using the
4 CM/ECF System for filing and
5 transmittal of a Notice of Electronic
6 Filing to the following, if CM/ECF
7 registrants, and mailed a copy of
8 same to any non-registrants, this 7th
9 day of May, 2012, to:

10 Cameron Hall
11 Michael Zoldan
12 Zachary Price
13 Hall & Chelle, LLC
14 7400 E. Pinnacle Peak Road, Suite 204
15 Scottsdale, Arizona 85255
16 Attorneys for Plaintiff

17 s/Gina M. Scott
18 Attorney General Legal Assistant

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